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SUPREME COURT OF THE UNITED STATES

October Term, 1970

No. 1251

SOUTHLAND INCORPORATED
Petitioner in Certiorari

v.

CGR ENTERPRISES INC. AND ATLANTA NEWSPAPERS INC.
Respondents in Certiorari

PETITION FOR REHEARING OF SOUTHLAND INCORPORATED

C. Smith Atkins
Attorney for Petitioner
1000-10 Candler Building
Atlanta, Georgia 30303

SUPREME COURT OF THE UNITED STATES

October term, 1970

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Petitioner in Certiorari

v.

COX ENTERPRISES INC AND ATLANTA NEWSPAPERS INC.
Respondents in Certiorari

PETITION FOR REHEARING OF SOUTHLAND INCORPORATED IN ITS PETITION FOR CERTIORARI TO THE SUPREME COURT OF GEORGIA

Petitioner Southland Incorporated seeks a rehearing because obviously some of its pleadings in the case, namely its Reply Brief, and the Record, failed to reach the Court in time for consideration before the Court's denial of writ of certiorari March 28, 1971.

PETITIONER IS CONFIDENT THAT IF THESE DOCUMENTS ARE GIVEN CAREFUL SCRUTINY THIS HONORABLE COURT WILL BE CONVINCED THAT ANY POSSIBLE REASONS FOR DENYING THE WRIT HAVE BEEN ELIMINATED.

The Reply Brief at pages 10 and 11 cites four instances in which petitioner properly and timely raised federal constitutional questions before the trial court.

The Reply Brief cites a 10-page brief on constitutional questions which was presented in the trial court by counsel for petitioner (R33,43).

On pages 14, 15 and 16 of its Reply Brief petitioner cites three additional instances in which federal constitutional questions were timely and properly raised in the trial court. In each instance controlling sections of the federal constitution were cited.

THE REPLY BRIEF POINTED OUT AT PAGE 13 THAT CONSTITUTIONAL QUESTIONS HERE PRESENTED ARE SO UNUSUAL AND OF SUCH EXTRAORDINARY PUBLIC IMPORT THAT THEY DEMAND CONSIDERATION BY THIS COURT.

If this judgment is allowed to stand, every corrupt municipal administration in the nation will be left free to close streets without regard to private or public needs or rights and barter the land to private parties for private use including private building sites as in the case at bar.

If this judgment is allowed to stand it will have other far-reaching and disastrous results to private and public constitutional rights.

THE TRIAL COURT HELD AND THE SUPREME COURT OF GEORGIA AFFIRMED THAT THE INTEREST OF PETITIONER AND OF THE PUBLIC IN THE STREETS IS AT THE MERCY OF ABUTTING LANDOWNERS WHO MAY CLOSE A STREET AND TAKE THE LAND FOR THEIR PRIVATE USE.

It is inconceivable that this Court can approve such a shocking, unjust and unconstitutional judgment.

The denial of the writ would have the effect of approving said shocking, unjust and unconstitutional judgment.

If the present judgment is allowed to

stand, any appellate court of any state can avoid deciding questions however meritorious or however pressing by the device of declaring that some other case dealing with different matters "controls" or by deciding that a later case controls a former case as held in the case at bar.

IF THIS JUDGMENT IS ALLOWED TO STAND, ANY COURT REPORTER OR JUDGE WILL HAVE IT IN HIS POWER TO CIRCUMVENT THE RIGHT TO AN APPEAL AND TO DENY A PARTY A REVIEW IN THE HIGH COURTS BY SIMPLY "MIS-PLACING" THE EVIDENCE FOR ONE YEAR.

A denial of the writ in this case would be in direct conflict with prior decisions of this court cited by petitioner in its Reply Brief.

A denial of the writ would have the effect of upholding the judgment of the Supreme Court of Georgia arbitrarily and capriciously depriving petitioner of its property consisting of its right of ingress and egress to and from its place of business without Due Process of Law and without Equal Protection of the Law granted to other persons

and parties in like circumstances and similar situations in violation of Section I of Amendment XIV of the U. S. Constitution and Amendment V of said Constitution as applied to the States by Section I of Amendment XIV thereof.

WHEREFORE petitioner prays this honorable Court will reconsider its previous denial of writ and will grant writ of certiorari in this case.

CONCLUSION

For the foregoing reasons it is respectfully submitted that the writ for certiorari should be allowed.

Respectfully submitted,

G. Seals Aiken
Attorney for Petitioner
1409-10 Candler Building
Atlanta, Ga. 30303

CERTIFICATE OF SERVICE

The undersigned attorney for Petitioner hereby certifies that at least three copies of the foregoing Petition for Rehearing of Southland Incorporated have

been served upon Counsel of Record for all the Respondents by depositing the same in a United States mail box, with first class postage prepaid, respectively addressed to such Counsel of Record at their post office addresses, as follows:

Allen Post, Esq.
3300 First National Bank Tower
Atlanta, Georgia 30303
Counsel for Atlanta Newspapers
and Cox Enterprises Inc., Respondents

Henry L. Bowden and
Martin McFarland Esqs.
William-Oliver Building
Atlanta, Georgia 30303
Attorneys for Respondent City of Atlanta

J. L. Glover Esq.
Glover and Davis
Post Office Drawer 1038
Newnan, Georgia 30263
Attorney for Respondent Batson-Cook Co.

This _____ day of April, 1971

G. Seals Aiken
Counsel for Petitioner
Southland Incorporated